

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

11-cr-576 (PKC)

-against-

ORDER

KEVIN PINERO,

Defendant.

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CASTEL, U.S.D.J.

Defendant Pinero seeks to compel the Bureau of Prisons to grant him credit against his sentence in this case for six months spent in state custody. The application will be denied.

Putting aside any procedural deficiencies in Mr. Pinero's present application, the time he spent in state custody for "relevant conduct" to the federal offense was taken into account by Judge Pauley at the time of resentencing:

And I want to be clear that, as I did at the original sentencing, I am granting the defendant's request for a six-month reduction for time spent in state custody under Section 5G1.3(b).

And so taking all of that into account, it is my judgment on resentencing, Mr. Pinero, that you be sentenced to a total term of 252 months of imprisonment, to be allocated as follows: 192 months on Counts One and Twenty-three, to be served concurrently and to be followed by the mandatory 60-month consecutive sentence on Count Twenty-eight, for a total sentence of 252 months of imprisonment.

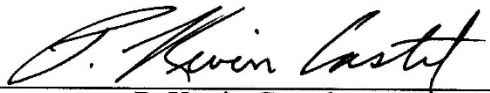
(Jan. 28, 2021, Tr. at 18.) This was a sentence substantially below the advisory guidelines. (Id. at 15; "the guideline range for Counts One and Twenty-three are 360 months to life, with Count

Twenty-eight being a mandatory consecutive sentence of 60 months.”)

Judge Pauley’s adjustment was fully consistent with Sentencing Guidelines § 5G1.3(b)(1) (“ the court shall adjust the sentence for any period of imprisonment already served on the undischarged term of imprisonment if the court determines that such period of imprisonment will not be credited to the federal sentence by the Bureau of Prisons.”) Because the state time had been already served and could not be credited by the Bureau of Prisons, Judge Pauley adjusted his sentence to take account of the time served in state custody. Mr. Pinero received the relief to which he was entitled.

The application (ECF 908) is DENIED.

SO ORDERED.


P. Kevin Castel
United States District Judge

Dated: New York, New York
December 17, 2024

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